

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.5023 OF 2000

Smt.Usha Manohar Deshpande, aged
adult, residing at c/o.M.D.Deshpande,
1823 Gopal Krishna Niwas,
Deshmukhwadi, Sadashiv Peth,
Pune-411030.

.. Petitioner

v/s.

1. The Deputy Registrar (Administration)
Indian Institute of Technology,
Powai, Bombay- 400 076.

2. The Principal, Campus School,
Indian Institute of Technology,
Powai, Bombay - 400 076.

3. Indian Institute of Technology,
Powai, Bombay- 400 076.

4. Union of India, New Delhi.

5. The State of Maharashtra

.. Respondents

Mr.Siddharth Likhite i/by Mr.Nitin Jamdar for the
petitioner.

Mr.Kishore Jain i/by Mr.B.K.Girdharlal & Co. for
respondent Nos.1 and 3.

Mr.S.R.Nargolkar, Assistant Government Pleader for
State.

CORAM : R.M. LODHA AND
R.S. MOHITE, JJ.

DATED : 15th April, 2005

ORAL JUDGMENT (Per R.M.Lodha, J.)

The petitioner before us was initially appointed
as matriculate trained teacher in the K.G.School run

by Indian Institute of Technology, Powai, Mumbai-
Respondent No.3 (for short, 'IIT') with effect from
1.9.1964 in the pay scale of Rs.118-225. She was
appointed as graduate trained teacher in the said
K.G.School on 3.11.1970 in the scale of Rs.160-300.
The said scale was later on revised to Rs.330-560.
The proposal for creation of post of incharge
teacher for the K.G.School run by IIT was considered
on 6th August, 1976 and it was decided that the post
having designation of incharge teacher in the pay
scale of Rs.425-640 may be provided to the
K.G.School from the academic year 1976-77 by
upgrading one of the existing post of graduate
trained teacher. In terms of this decision, the
petitioner was appointed as incharge teacher in the
scale of Rs.425-640 with effect from 6.12.1976. On
petitioner's completion of eight years as incharge
teacher in the scale of Rs.425-640, under personal
promotion scheme, she was brought in the scale of
Rs.550-950 as incharge teacher on 6.12.1984.

2. It may be noticed here that initially, primary
and secondary school in the premises of IIT was
established and controlled by Kendriya Vidyalaya.
However, it was felt that the capacity of Kendriya
Vidyalaya was inadequate. Accordingly, the Campus
Education Society, to facilitate the admission of

the students of the staff members residing on campus and around, started the Campus School. The Campus School had primary and secondary classes. The secondary school run by the Campus Education Society was affiliated to the Maharashtra Board. Vide resolution dated 10th January, 1985, the Board of Directors of IIT decided to take over the management of the Campus School and Campus School came under the management of IIT. K.G.School was brought under the administrative control of the campus school in the year 1988. It appears that one Mrs.Shahu was recruited by Campus Education Society to the post of incharge teacher in the scale of Rs.425-640 on 18.10.1978. The Campus Education Society resolved in the year 1982 that the incharge teacher in the campus school be designated as headmistress in the pay scale of Rs.550-900. By the order dated 1.6.1982, Mrs.Shahu was placed in the revised scale of Rs.550-900 as Headmistress, Campus School retrospectively from 18.10.1978.

3. The petitioner claims to be entitled to the pay scale of Rs.550-900 with retrospective effect from 6.12.1976 and is said to have made various representations to the concerned authorities of IIT from time to time. According to her, her last representation was rejected by the Deputy Registrar,

Administration on 8th September, 1994 and aggrieved

thereby, the present writ petition has been filed.

4. It may be noticed here that the present writ petition has been filed after the petitioner had already retired from service. As already indicated above, the petitioner was appointed as incharge teacher in the scale of Rs.425-640 on 6.12.1976. Now, she claims that she is entitled to the pay scale of Rs.550-950 from that date in the writ petition filed in the year 1995. We are afraid, the writ petition suffers from gross laches. Merely because the petitioner went on making representations after representations, that would not explain such inordinate delay. It is settled law that the making of repeated representations cannot be held to be satisfactory explanation of the delay. If the first representation made by the petitioner was not considered by the authorities within reasonable time, the petitioner ought to have approached the court within reasonable time. If the order of the Deputy Registrar, Administration is considered, it appears that it was the representation made by the petitioner on 27.7.1994 that came to be rejected on 8th September, 1994. There was no justification for the petitioner to wait until she made the representation on 27.7.1994

and that representation came to be rejected on

8.9.1994.

5. Even otherwise on merits, claim of the petitioner is misconceived and misplaced. The comparison of the incharge teacher in K.G.School with the Headmistress of primary/secondary school for the purposes of pay scale is wholly fallacious. The incharge teacher of K.G.School is not comparable from any reckoning with the Headmistress of primary/secondary school. Merely because in the proposal for creation of the post of incharge teacher from the K.G.School, it was observed that the assignment of incharge teacher of K.G.School is comparable to Headmistress of primary school, we hardly find any justification in the contention that the pay scale that was given to Mrs.Shahu, Headmistress of the primary and secondary school with retrospective effect must also be given to the petitioner with retrospective effect. The post of incharge teacher of K.G.School, in our considered view, is not comparable with the post of Headmaster/Headmistress of the primary/secondary school. The nature of work that an incharge teacher of K.G.School has to do is materially and substantially different with the nature of work that Headmaster/Headmistress of primary school/secondary

school does. In this view of the matter, the petitioner's claim in the writ petition cannot be accepted.

6. Writ petition, is therefore, liable to be dismissed and we order accordingly. Rule is discharged. No costs.

(R.M. LODHA, J.)

(R.S. MOHITE, J.)